

## **Draft**

### **Oregon Agricultural Measures and CZARA Decision**

#### **Where We are and Where We're Going**

#### **Talking Points for Dennis McLerran for April 2<sup>nd</sup> Ag Directors' Meeting**

- In January 2004, EPA and NOAA provided an informal interim approval to Oregon on Oregon's agricultural management measures because Oregon had adopted its Agriculture Water Quality Management Act, also known as Senate Bill 1010, and companion nutrient management plans. These programs indicated that Oregon had processes in place consistent with the CZARA 6217(g) guidelines for agriculture. Specifically, NOAA and EPA indicated that the State:
  - Had satisfied the condition for designating AWQMAs;
  - Had satisfied the condition to complete the alternative management measure for grazing
  - Had demonstrated the AWQMAPs will include management measures that conform with 6217 guidance;
  - Had demonstrated it has a process in place to incorporate the irrigation management measure; and
  - Will have satisfied the condition for having AWQMAPs for the entire coastal area when the South Coast AWQMAP is finished.
- In the same decision document, EPA and NOAA did identify some concerns with:
  - How the biennial review and rule revision of the AWQMAP process will link enforcement capability to the management measures;
  - The lack of enforcement taken by the State when enforcement action might be needed;
  - The AWQMAP process being TMDL driven when the process should be proactive not just responsive when TMDLs are developed to improve degraded water quality
- Since then EPA and NOAA have received comments from the public raising concerns about the adequacy of Oregon's agricultural measures to protect water quality in coastal waters.
- Additionally, NOAA's National Marine Fisheries Services (NMFS) recent listings for coho salmon and draft recovery plans also found that insufficient riparian buffers around agricultural activities contribute to salmon decline.

- Consequently, on December 20, 2013, EPA and NOAA invited public comment on the adequacy of Oregon’s agricultural programs and policies to prevent and control nonpoint source pollution consistent with CZARA goals and requirements.
- On January 30, 2015, EPA and NOAA disapproved Oregon’s Coastal Nonpoint Control Plan solely on the basis of the inadequacy of certain forestry measures to protect water quality.
- EPA and NOAA did not make a finding on Oregon’s agricultural management measures nor reverse the interim approval.
- EPA and NOAA are currently evaluating public comment that was received on Oregon’s agricultural measures, including concerns raised in the following areas:
  - Enforcement is limited and largely complaint driven; it is unclear what enforcement actions have been taken in the coastal nonpoint management area and what improvements resulted from those actions.
  - The Agricultural Water Quality Management Area (AWQMA) plan rules are general and do not include specific requirements for implementing the plan recommendations (i.e., absence of specific buffer requirements to adequately protect water quality and fish habitat).
  - AWQMA planning has focused on impaired areas when focus should also be on protecting areas from becoming impaired and on restoring impaired areas.
  - The State does not administer a formalized process to track implementation and effectiveness of AWQMA plans.
  - AWQMA planning and enforcement does not address “legacy” activities that led to impairment but are no longer occurring.
- EPA and NOAA will decide whether to reverse the interim approval or not. Before doing so, we would like to engage the State (ODA, ODEQ, other State agencies, as appropriate) in a discussion and an exchange of information about whether and how the State is or plans to address the concerns raised.
- Next step is to set up a discussion with the State sometime in May.

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**Comment [HA1]:** Christine, I would delete "informal". It was an "interim approval" in the same context as other issued interim approvals.

**Comment [HA2]:** Christine, however we say it, I think we need to include the expressed concerns that were in the 2004 letter. Things were not perfect with Ag in 2004 and we don't want to convey the message that everything was even though we issued an interim approval. These points are also consistent with the concerns we raised in our December 2013 proposed decision document.

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